



BOARD OF APPEALS
Diane R. Gordon, Co-Chair
Harry Miller, Co-Chair
Bailey S. Silbert

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2210 Fax (617) 730-2248
Patrick J. Ward, Secretary

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. BOA 070033

Petitioner, Laura Patton applied to the Board of Appeals for zoning relief to construct an addition to her home, enclose the portico and construct a new driveway at 105 Rockwood Street.

On May 10, 2007 the Board of Appeals met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed June 28, 2007 at 7:00 p.m. in the Selectmen's Hearing Room, 6th Floor, Town Hall as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioners, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published June 7 and 14, 2007 in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

TOWN OF BROOKLINE
MASSACHUSETTS
BOARD OF APPEALS
NOTICE OF HEARING

Pursuant to M.G.L., C.39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **PATTON, Laura**
Location of Premises: **105 ROCKWOOD ST BRKL**
Date of Hearing: **06/28/2007**
Time of Hearing: **07:00 p.m.**
Place of Hearing: **Selectmen's Hearing Room**

A public hearing will be held for a special permit and/or variance from:

- 1) **5.09.2j; Design Review; Special Permit Required.**
- 2) **5.20; Floor Area Ratio; Variance Required.**
- 3) **5.22.3.c; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units; Special Permit Required.**
- 4) **8.02.2; Alteration or Extension; Special Permit Required.**

For the Design of All Off-Street Parking Facilities:

- 5) **6.04.5.c.1; Variance Required.**
- 6) **6.04.12; Special Permit Required** of the Zoning By-Law to construct an addition, enclose the front portico and construct a driveway per plans at **105 ROCKWOOD ST BRKL.**

Said Premise located in a S-40 District.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

**Diane R. Gordon
Harry Miller
Bailey S. Silbert**

Due to construction at Town Hall, the location of the meeting was changed to Room 202 Old Lincoln School, 194 Boylston Street. Notice of the change was posted at Town Hall including

outside the advertised hearing room. The opening of this hearing was delayed until 7:15 p.m. to ensure anyone that wished to attend had ample time to do so. Present at the hearing was Chair, Enid Starr and Board members Bailey Silbert and Jesse Geller. Edward B. Patton, husband of the petitioner, presented the case before the board.

Mr. Patton described the site as a large lot on the Brookline/Boston line with a two-and-a-half-story single-family dwelling built in 1905 with a detached garage. A large parcel abutting the subject property to the east on Rockwood Street is under the same ownership, but it is located in Boston and not considered part of this application. Currently, the existing garage is quite close to the front lot line (approximately 10 feet), and the driveway leads directly onto Rockwood Street. Substantial landscaping exists along the property's lot lines and street frontage. Mr. Patton said the proposal is to remove the existing garage and construct a new garage attached to the existing dwelling by a breezeway. A new circular driveway would also be constructed. The new garage would be 28 feet wide by 32.9 feet deep and located largely behind where the current garage is located, approximately 30 feet 6 inches from the front lot line. Approximately 700 s.f. of the structure would be used for parking; an interior wall would separate vehicle parking from a mechanical/storage area at the rear. The garage would be 23 feet 6 inches tall, not including a cupola 7 feet 6 inches tall, and it would have a gabled roof with a 14-foot-wide shed dormer. Mr. Patton said that the upper portion of the garage would not be used as finished floor area. Two, nine-foot-wide garage doors on the front façade would provide vehicular access; a door on the garage's west side elevation would provide exterior pedestrian access, and an interior door in the rear corner would provide access between the proposed storage/garage area and the new breezeway. The breezeway attaching the garage to the dwelling would be 9 feet wide by 16 feet

deep, and provide approximately 128 s.f. of floor area. Additionally, the existing covered porch to the dwelling's kitchen where the breezeway would be attached to the main dwelling would be enclosed, adding 92 s.f. of finished floor area. The current arched window opening for this porch would be enlarged to provide for a new door and window, similar to the arched windows on the breezeway. He said that in anticipation of the project, an application to demolish the existing garage was submitted to the Preservation Commission. The Commission subsequently voted to uphold Preservation Staff's initial determination of significance for the garage and instituted a one-year delay for issuance of the demolition permit. This delay will expire July 11, 2007. Mr. Patton said he needed relief under design review, increased floor area, construction of the new driveway and because his home is pre-existing, non-conforming.

The Chair then asked whether anyone wished to speak in favor or in opposition to the proposal. No-one responded. The Chair asked whether he had spoken with his neighbors and Mr. Patton said his wife had spoken with them about the project and they had no issues.

Planner, Lara Curtis, then reviewed the relief required for the project:

Section 5.20 – Floor Area Ratio

Section 5.22.3.c – Exceptions to Maximum Floor Area Regulations for Residential Units

FLOOR AREA

	<u>Allowed By Right</u>	<u>Allowed By Special Permit</u>	<u>Existing</u>	<u>Proposed</u>	<u>Finding</u>
Floor Area Ratio (F.A.R.)	0.15 (100%)	0.225 (up to 150%)	0.17 (113%)	0.181 (120%)	<u>Variance / Special Permit*</u>
Floor Area (s.f.)	4,401.5	5,469.5 (addition must be less than 350 s.f.)	5,119.5	5,339.5	--

* Under Section 5.22.3.c, if a proposal involves a floor area increase of less than 350 s.f., the Board of Appeals may grant a special permit for the increase as long as the total gross floor area of the building is not more than 150 percent of the permitted gross floor area.

Section 5.09.2.j – Design Review

Exterior additions to existing structures for which a special permit is requested pursuant to *Section 5.22 Exceptions to Maximum Floor Area Ratio Regulations for Residential Units* require a special permit subject to the design review standards listed under *Section 5.09.4(a-l)*. The most relevant sections are described below:

- a. *Preservation of Trees and Landscape:* The proposed garage and breezeway addition will be located to the side of the dwelling where minimal landscaping currently exists. The new driveway will preserve several significantly-sized hemlock trees, though some trees and shrubs will have to be removed. The property has extensive landscaping throughout, and removal of a portion of the landscaping will not substantially detriment neighboring properties.
- b. *Relation of Buildings to Environment:* The proposed garage and breezeway addition is designed to integrate well with the existing dwelling, with similar windows, decorative details and the same exterior finishing. The proposal is located a significant distance from other properties and should not negatively impact neighboring buildings.
- c. *Open Space:* The garage and driveway, though located to the front and side of the existing dwelling, will still allow for a significant amount of landscaping in front of the dwelling and along the street edge. Additionally, the property will continue to retain an ample amount of usable and landscaped open space to the side and rear of the dwelling.
- d. *Circulation:* The new garage and driveway will enable the applicants to avoid backing vehicles out onto Rockwood Street and ensure a safe drop-off area for residents and visitors. The driveway is not excessively wide (approximately 12 feet to 15 feet).
- e. *Stormwater Drainage:* The applicant has submitted plans indicating on-site drainage infrastructure. The Engineering and Building Departments will need to approve all drainage plans.
- j. *Heritage:* The applicants have been working with the Preservation Commission on available options for preserving the current garage rather than constructing a new garage, but the applicants have found such options, including moving the garage or constructing a basement garage in the existing dwelling, to be cost prohibitive. The design of the garage and the breezeway is meant to integrate well with the style of the existing dwelling and keeps some elements of the current garage, such as the front circular window. The demolition delay for the current garage will expire in July 2007.

Section 6.04.5.c.1 – Design of All Off-Street Parking Facilities: Front yard setback

PARKING AREA

	Required	Existing	Proposed	Finding
Front yard setback (driveway)	30 feet	10 feet	5 feet to 31 feet	Variance / Special Permit**

Side yard setback (driveway)	5.3 feet	15 feet	21.9 feet	Complies
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** Under Section 6.04.12, the Board of Appeals may by special permit waive the dimensional requirements for parking facilities serving existing structures.

Section 8.02.2 – Alteration or Extension: Special permit required.

Ms. Curtis stated that the Planning Board is not opposed to the proposal to demolish an existing garage and construct a new garage connected to the dwelling by a new breezeway addition, as well as construct a new circular driveway in front of the dwelling. The garage and breezeway have been designed to integrate well with the existing house and should provide adequate parking and storage for the dwelling's residents. Though the new driveway would remove some of the property's vegetation, its location will maintain most of the existing landscaping in front of the house while also providing a through-way for on-site vehicular circulation. Ms. Curtis said that the Planning Board recommended approval of the proposal and the floor and elevation plans, prepared by Monika Pauli and last dated 5/14/07; the site layout, grading and drainage plan, prepared by Alberto Gala and last dated 4/23/07; and the plot plan prepared by Clifford Rober and last dated 12/26/06, subject to the following conditions:

1. **Prior to the issuance of a building permit, a final site plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
2. **Prior to the issuance of a building permit, final elevations of the addition and garage shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
3. **The space above the garage and the mechanical/storage area in the garage shall not be finished and used as habitable space.**
4. **Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations of the addition and garage, stamped and signed by a**

registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chair called on Frank Hitchcock representing the Building Department. Mr. Hitchcock described the lot as being very large with a considerable portion in another jurisdiction. He said the project was a request to demolish the existing garage, construct a new garage attached to the house by a breezeway and construct a new driveway. He said all the required relief could be granted by Special Permit. Mr. Hitchcock stated that relief was required for Design Review under Section 5.09.2.j of the bylaw. Because the addition would increase the gross floor area beyond that which is allowed by right, relief is required under Section 5.22.3.c. He said that the Board of Appeals under Section 6.04.12 of the bylaw may waive the dimensional requirements for parking facilities serving existing structures. He commented that since it was a circular driveway, cars could park in front yard which is a violation of the zoning bylaws. He said that although the dimensional requirement could be waived, the Board could consider a condition restricting parking in the front yard. Also, relief was required under Section 8.02.2 because of pre-existing non-conformities. Mr. Hitchcock stated that the Building Department had no objections to the proposal, the relief required or the conditions recommended by the Planning Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant Special Permits under Section 5.09.2.j, Section 5.22.3.c,

Section 6.04.12 and Section 8.02.2 of the Zoning Bylaw. The Board made the following findings pursuant to Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. The development as proposed will not have a significant adverse effect on the supply of housing available for low and moderate income people.

Mr. Silbert commented that the planned addition represented a more harmonious composition than currently exists. Mr. Geller commented that a condition restricting parking in the front yard would be difficult to enforce and he recommended against this additional requirement. The Chair commented on condition #3 recommended by the Planning Board. She said that the petitioners should be allowed to come back before the Board at a later date to request additional relief regarding the unfinished second floor of the garage if their circumstances warrant such a request. Therefore, the Board voted unanimously to grant all the Special Permit relief with the following conditions:

- 1 Prior to the issuance of a building permit, a final site plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 2 Prior to the issuance of a building permit, final elevations of the addition and garage shall be submitted to the Assistant Director for Regulatory Planning for review and approval.**
- 3 The space above the garage and the mechanical/storage area in the garage shall not be finished and used as habitable space. However, the petitioner may, without prejudice, return to the Board to request additional relief in the form of a modification, if desired.**

- 4 Prior to issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final elevations of the addition and garage, stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals



Enid Starr

Filing Date: July 03, 2007

A True Copy:

ATTEST



Patrick J. Ward

Clerk

Board of Appeals